

**AN ORDINANCE**

**BY COMMITTEE ON COUNCIL**

**AN ORDINANCE TO AMEND FOR CLARIFICATION PURPOSES, SECTION 2-36 "PRESIDENT OF COUNCIL" OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA BY (1) DELETING SUBSECTION (e) AND RE-DESIGNATING SAID SUBSECTION AS SECTION 2-37 "SELECTION OF COUNCIL PRESIDENT PRO TEMPORE"; (2) BY DELETING SUBSECTIONS (i) AND (j); (3) BY RE-DISIGNATING SUBSECTION (h) AS SUBSECTION (a) AND BY RE-DESIGNATING SUBSECTIONS (a), (b), (c) AND (d) AS SUB-SUBSECTIONS (1), (2), (3), AND (4) RESPECTIVELY, OF SUBSECTION (a); (4) TO RE-DESIGNATE SUBSECTIONS (f), (g), AND (k), AS SUBSECTIONS (b), (c) AND (d) RESPECTIVELY; TO RE-DESIGNATE THE EXISTING SECTION 2-37 "APPOINTMENT TO FILL VACANCY" AS SECTION 2-37.1 AND TO CHANGE THE CURRENT SECTION CAPTION TO "METHOD OF FILLING TEMPORARY COUNCIL VACANCY"; TO RE-DESIGNATE THE EXISTING SECTION 2-37.1 "SUCCESSION TO THE OFFICE OF MAYOR, OFFICE OF COUNCIL PRESIDENT AND POSITION OF COUNCIL PRESIDENT PRO TEMPORE" TO SECTION 2-37.2; TO MAKE MINOR LANGUAGE MODIFICATIONS TO SAID SECTIONS AND SUBSECTIONS FOR PURPOSES OF CLARIFICATION AND/OR CONSISTANCY; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.**

**WHEREAS**, Section 2-36 of the Code of Ordinances of the City of Atlanta, Georgia, contains subsections which should be relocated to other parts of the Code; and

**WHEREAS**, the purpose of this ordinance is to reorder, re-designate and relocate, where applicable, the subsections contained in Section 2-36; and

**WHEREAS**, said reordering, re-designation, and relocation of certain subsections of Section 2-36 will cause the re-designation of Sections 2-37 and 2-37.1 to become Sections 2-37.1 and 2-37.2 respectively.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:**

**Section 1: Section 2-36 "President of council", Section 2-37 "Appointment to fill vacancy" and Section 2-37.1 "Succession to the office of mayor, office of council president and position of council president pro tempore** of the Code of Ordinances of the City of Atlanta, Georgia, which currently provide as follows:

**Sec. 2-36. President of council.**

- (a) The president of the council shall, upon taking the chair, call the members of the council to order and, on the presence of a quorum, cause the journal of the proceedings of the last council meeting to be read for approval by the council.
- (b) The president shall preserve order and decorum and shall have general control of the council chamber and its appurtenances.
- (c) The president shall sign all ordinances, resolutions, subpoenas and other documents issued by order of the council and shall rule upon all questions of order, subject to appeal by any councilmember.
- (d) The president shall propound all questions to the council and shall declare the vote thereof upon voice vote or electronic vote, or if in doubt, upon a call of the vote. Any member of the council shall have the right to require "yeas" and nays' to be recorded on the minutes in all cases. The president shall vote only if a tie vote of the council occurs.
- (e) The council shall select a president pro tempore on an annual basis who shall preside in the absence of the president. The councilmember selected to serve as president pro tempore shall be chosen on a rotational basis based on seniority as has been the tradition. If two or more councilmembers are of equal seniority, the selection shall be made on the basis of the numerical order of the respective district or post. No councilmember shall serve a second year as president pro tempore until all members have served at least one year. During the absence of the president, the president pro tempore shall discharge the duties and exercise the powers and authority of the president. In the absence of the president pro tempore, the president shall appoint any member of the council to preside in the president's absence. The councilmember so chosen shall discharge the duties and exercise the powers and authority of the president. The member of the council presiding, whether the president pro tempore or a member of the council appointed by the president, shall vote on all questions before the council during the time such member is presiding.

(f) All appointments to committees made by the council president shall be for one year.

(g) The president shall be authorized to compel the attendance of councilmembers by subpoena, in such circumstances as the president shall deem to warrant the issuance of a subpoena. The subpoena shall, when issued, be executed immediately and without delay by any officer of the council so designated in accordance with its rules or by the president. The president shall have the authority to levy a fine of up to \$50.00 upon any councilmember who willfully fails to respond to a subpoena.

(h) The president shall have all the powers and shall perform all the duties normally incumbent upon a presiding officer, it being the president's primary responsibility to ensure the expeditious discharge of public responsibilities and obligations imposed upon the council by law.

(i) Upon the assumption by the president of the council of the powers and duties of the mayor as provided in section 2-203(d) of the Charter and, where appropriate, until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, the president pro tempore of the council, elected pursuant to subsection (e) of this section, shall assume and discharge the powers and duties of the president of the council.

(j) If both the mayor and president of the council are unable to perform their duties because of death, disability, incapacity, disqualification or as otherwise provided in the Charter, the president pro tempore shall, where applicable, until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, exercise all powers and discharge all duties of the office of the mayor, and the council shall immediately thereafter elect from among its members a president pro tempore whose powers and duties shall be as provided in the Charter and this Code for the president of the council.

(k) The council president's expense accounts and appropriations shall be structured as follows:

(1) The chief financial officer is authorized and directed to establish within the city's standard chart of accounts, within the category of other current operating expenses, an expense account entitled "President's expense." The account shall be charged for expenses relating to official city business of the president, to include but not be limited to business travel; convention and training; newsletter and other publication or correspondence production and distribution; office and operating supplies; service, equipment, maintenance or repair contracts; subscriptions to publications; and postage. Should the president desire to utilize a portion of the expense accounts to fund projects for the public good, the president may by ordinance establish a separate account from which to fund such projects which are outside the scope of regular office expenses.

(2) For appropriations to the president's accounts, the president shall be deemed to be the equivalent of a department head within the context of authority over the funds appropriated to the center designated and shall have authority to draw against and transfer among accounts within such center in conformity with this Code and administrative provisions, with the exception of the salaries permanent part-time and benefits accounts. Appropriations for salaries permanent part-time and benefits shall only be expended as compensation and benefits for council assistants and are restricted from transfer to any other account. All other expenditures within the center shall be charged against the appropriate expense account in the city's chart of accounts. Notwithstanding the foregoing, the prohibition against transferring allocations from the president's cost center shall not apply to transfers from any line item in the president's cost center to an operating department.

(3) Subsections (1) and (2) of this section notwithstanding, the chief financial officer is authorized to ensure that funds required for salary and benefit costs shall be encumbered in such accounts and that no encumbered funds so required shall be spent for any other purpose.

(4) If the president incurs expenses or obligations in excess of the sums appropriated for use in any calendar year, the appropriations for the succeeding year shall be reduced by the amount of any such overage. If the president shall not be serving in office in the succeeding year, such excess expenses or obligations shall be immediately reimbursable to the city.

(5) The mayor and the chief financial officer are authorized to carry forward, as appropriations payable, from one fiscal year to the next, within a four-year term of office, and from one term to the next term; unexpended funds in appropriations to the cost center established for the president of council, provided said person shall serve continuous uninterrupted terms. If such person shall not be serving in office from one term to the next, any unexpended funds shall be returned to the general fund.

#### **Sec. 2-37. Appointment to fill vacancy.**

(a) Upon it becoming necessary to fill a temporary vacancy in the office of councilmember created by the operation of state law or, as otherwise provided by law, upon it becoming necessary to appoint by majority vote a member of the council to fill a vacancy in the office of councilmember, the municipal clerk shall have advertised in a paper of general circulation an announcement of the vacancy, together with the qualifications of the office and the geographical boundaries of the district to be represented, instructions of how to apply for the vacancy and the deadline therefor. These applications shall be forwarded by the municipal clerk to the committee on the council.

(b) The committee on the council shall present the applications to the council at the next regular meeting after the deadline or at a specially called

meeting for that purpose. Nominations may also be taken from the floor at this time from any member of council. The president or presiding officer shall then refer all such nominations to the committee on the council for review and comment for the purpose of reporting on the qualifications of such nominees, any nominee not possessing the required qualifications being automatically disqualified.

(c) Upon the report of the committee on the council, a vote upon the nominees shall be taken, with no further nominations being allowed from the floor. Should no nominee receive a majority, a second vote shall be conducted between the two nominees receiving the highest number of votes. The nominee receiving a majority vote shall thereby be appointed to fill the vacancy.

(d) The qualifications necessary to qualify for election as a councilmember, as set forth in section 2-102(a) of the Charter, shall also apply to an application for the office of councilmember under this section; however, an applicant for appointment under this section shall possess all the required residency qualifications in section 2-102(a)(2) of the Charter as of the date of filing the application for the vacancy. The oath of office shall also be the same, and the replacement official shall receive the same compensation as provided by law for such office.

(e) All applicants/nominees for a vacancy on the council, which position is to be filled through appointment by the council, shall file an affidavit with the municipal clerk by 12 noon on the date that the appointment is to take place. Said affidavit shall disclose a listing of the sources of funds the applicant has received or expended. However, if the applicant/nominee has neither received or expended more than \$100.00, the applicant/nominee may file an affidavit to that effect in lieu of a listing of contributions and expenditures that are reasonably related to the applicants application to the appointment.

**Sec. 2-37.1. Succession to the office of mayor, office of council president and position of council president pro tempore.**

(a) Vacancy in the office of mayor.

(1) In the event the office of mayor shall become vacant by reason of death, resignation, or any other cause, the council president shall immediately exercise all powers and discharge all duties of the mayor as provided in section 2-203(a)(4) of the Charter for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

(2) Upon the council president exercising all powers and discharging all duties of the mayor, the council president pro tempore shall immediately exercise all powers and discharge all duties of the council president for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter. Upon the council

president pro tempore exercising all powers and discharging all duties of the council president he/she shall not be entitled to also vote as a member of council.

(3) Upon the council president pro tempore exercising all powers and discharging all duties of the council president, the council member possessing the highest number of years seniority in terms of successive years of service on the council, shall act as the council president pro tempore. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the acting council president pro tempore who shall serve for the remainder of the then calendar year; at which time the election of a new council president pro tempore occurs based on the natural rotation as provided in Code section 2-36(e), or for the duration of the term of office, or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, whichever occurs first.

(4) In the event that the council president pro tempore exercises all powers and discharges all duties of the council president, a temporary council vacancy shall occur in his/her seat which shall be filled pursuant to Code section 2-37.

(5) If a special election shall occur, once such special election has been conducted to fill the office of mayor and a new mayor has been elected and sworn into office, the council president shall immediately resume his/her duties as council president, the council president pro tempore shall immediately return to his/her council seat and shall resume his/her duties as council member and council president pro tempore or a new council president pro tempore shall be elected based on the natural rotation as provided in Code section 2-36(e) depending upon which point in the calendar year the special election occurs, the council member acting in the capacity of council president pro tempore shall no longer act in that capacity; and the person appointed by council to fill the temporary council vacancy caused by this succession shall no longer serve in the capacity of council member.

(b) Vacancy in the office of council president.

(1) In the event the office of council president shall become vacant by reason of death, resignation, or any other cause, the council president pro tempore shall immediately exercise all powers and discharge all duties of the council president for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

(2) Upon the council president pro tempore exercising all powers and discharging all duties of the council president, the council member possessing the highest number of years seniority in terms of successive years of service on

the council, shall act as the council president pro tempore. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the acting council president pro tempore who shall serve for the remainder of the then calendar year; at which time the election of a new council president pro tempore occurs based on the natural rotation as provided in Code section 2-36(e), or for the duration of the term of office, or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, whichever occurs first.

(3) In the event that the council president pro tempore exercises all powers and discharges all duties of the council president, a temporary council vacancy shall occur in his/her seat which shall be filled pursuant to Code section 2-37.

(4) If a special election shall occur, once such special election has been conducted to fill the office of council president and a new council president has been elected and sworn into office, the council president pro tempore exercising all powers and discharging all duties of the council president shall immediately return to his/her council seat and shall resume his/her duties as council member and as council president pro tempore or a new council president pro tempore shall be elected based on the natural rotation as provided in Code section 2-36(e) depending upon which point in the calendar year the special election occurs; the council member acting in the capacity of council president pro tempore shall no longer act in that capacity; and the person appointed by council to fill the temporary council vacancy caused by this succession shall no longer serve in the capacity of council member.

(c) Vacancy in the position of council president pro tempore.

(1) In the event that the position of council president pro tempore shall become vacant by reason of death, resignation, or any other cause, the council member possessing the highest number of years seniority in terms of successive years of service on the council, shall act as the council president pro tempore. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the acting council president pro tempore who shall serve for the remainder of the then calendar year, at which time the election of a new council president pro tempore occurs based on the natural rotation.

(d) Vacancy in both the office of mayor and council president.

(1) In the event the office of both mayor and council president shall become vacant by reason of death, resignation, or any other cause, the council president pro tempore shall immediately exercise all powers and discharge all duties of the mayor for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

(2) Upon the council president pro tempore exercising all powers and discharging all duties of the mayor, the council member possessing the highest number of years seniority in terms of successive years of service on the council, shall exercise the powers and discharge all duties of the council president. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the Council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the council member who shall exercise all powers and discharge all duties of the council president and who shall serve for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

(3) The council member possessing the second highest number of years seniority in terms of successive years of service on the council, shall act as council president pro tempore. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the acting council president pro tempore who shall serve for the remainder of the then calendar year, at which time the election of a new council president pro tempore occurs based on the natural rotation, as provided in Code section 2-36(e), or for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, whichever occurs first.

(4) In the event that the council president pro tempore exercises all powers and discharges all duties of the mayor, and a council person exercises all powers and discharges all duties of the council president, temporary council vacancies shall occur in their seats which shall be filled pursuant to Code section 2-37.

(5) If a special election shall occur, once such special election has been conducted to fill the office of mayor and council president and a new mayor and council president have been elected and sworn into office, the council president pro tempore exercising all powers and discharging all duties of the mayor shall immediately return to his/her council seat and shall resume his/her duties as council member and council president pro tempore or a new



council president pro tempore shall be elected based on the natural rotation as provided in Code section 2-36(e) depending upon which point in the calendar year the special election occurs; the council member exercising all powers and discharging all duties of the council president shall immediately return to his/her council seat and shall resume his/her duties as council member; the council member acting in the capacity of council president pro tempore shall no longer act in that capacity; and the persons appointed by council to fill the temporary council vacancy caused by this succession shall no longer serve in the capacity of council member.

(e) Vacancy in the office of mayor, office of council president and position of council president pro tempore.

(1) In the event the office of mayor, office of council president and the position of council president pro tempore shall become vacant by reason of death, resignation, or any other cause;

a. The council member possessing the highest number of years seniority in terms of successive years of service on the council, shall immediately exercise all powers and discharge all duties of the mayor. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the council member to exercise all powers and discharge all duties of the mayor who will then announce the name of the mayor and who shall serve for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

b. The council member possessing the second highest number of years seniority in terms of successive years of service on the council, shall immediately exercise all powers and discharge all duties of the council president. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the council member who shall exercise all powers and discharge all duties of the council president and who shall serve for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter.

c. The councilmember possessing the third highest number of years of seniority in terms of successive years of service on the council, shall act as the council president pro tempore. If two or more council members are of equal seniority, upon the declaration of a quorum at the next held regular or special

called meeting of the council after the vacancy occurs, the names of the members with equal seniority will be placed in a lottery with a single name to be drawn by the municipal clerk or deputy municipal clerk, who will then announce the name of the acting council president pro tempore who shall serve for the remainder of the then calendar year, at which time the election of a new council president pro tempore occurs based on the natural rotation, as provided in Code section 2-36(e), or for the duration of the term of office or until a special election can be conducted pursuant to the terms of section 5-103 of the Charter, whichever occurs first.

(2) In the event that a council member exercises all powers and discharges all duties of the mayor and a council member exercises all powers and discharge all duties of the council president, temporary council vacancies shall occur in their seats which shall be filled pursuant to Code section 2-37.

(3) If a special election shall occur, once such special election has been conducted to fill the office of mayor and council president and a new mayor and council president have been elected and sworn into office, the council member exercising the powers and discharging the duties of the mayor shall immediately return to his/her council seat and shall resume his/her duties as council member; the council member exercising the powers and discharging the duties of the council president shall immediately return to his/her council seat and shall resume his/her duties as council member; the council member acting in the capacity of council president pro tempore shall either continue to act in that capacity or a new council president pro tempore shall be elected based on the natural rotation as provided in Code section 2-36(e) depending upon which point in the calendar year the special election occurs; and the persons appointed by council to fill the temporary council vacancies caused by this succession shall no longer serve in the capacity of council member.

**IS HEREBY AMENDED BY (1) DELETING SUBSECTION 2-36(e) AND RE-DESIGNATING SAID SUBSECTION AS SECTION 2-37 "SELECTION OF COUNCIL PRESIDENT PRO TEMPORE"; (2) BY DELETING SUBSECTIONS (i) AND (j); (3) BY RE-DESIGNATING SUBSECTION (h) AS SUBSECTION (a) AND BY RE-DESIGNATING SUBSECTIONS (a), (b), (c) AND (d) AS SUBSECTIONS (1), (2), (3), AND (4) RESPECTIVELY, OF SUBSECTION (a); (4) TO RE-DESIGNATE SUBSECTIONS (f), (g), AND (k), AS SUBSECTIONS (b), (c) AND (d) RESPECTIVELY; TO RE-DESIGNATE THE EXISTING SECTION 2-37 "APPOINTMENT TO FILL VACANCY" AS SECTION 2-37.1 AND TO CHANGE THE CURRENT SECTION CAPTION TO "METHOD OF FILLING TEMPORARY COUNCIL VACANCY"; TO RE-DESIGNATE THE EXISTING SECTION 2-37.1 "SUCCESSION TO THE OFFICE OF MAYOR, OFFICE OF COUNCIL PRESIDENT AND POSITION OF COUNCIL PRESIDENT PRO TEMPORE" TO SECTION 2-37.2; AND TO MAKE MINOR LANGUAGE**

**MODIFICATIONS TO SAID SECTIONS AND SUBSECTIONS FOR PURPOSES OF CLARIFICATION AND/OR CONSISTANCY;**

**SO THAT WHEN AMENDED, SAID CODE SECTIONS SHALL PROVIDE AS FOLLOWS:**

**Sec. 2-36. Council president.**

(a) At all meetings of the full city council, the council president shall have all the powers and shall perform all the duties normally incumbent upon a presiding officer, it being the council president's primary responsibility to ensure the expeditious discharge of public responsibilities and obligations imposed upon the council by law.

(1) The council president shall, upon taking the chair, call the members of the council to order and, on the presence of a quorum, cause the journal of the proceedings of the last council meeting to be read for approval by the council.

(2) The council president shall preserve order and decorum and shall have general control of the council chamber and its appurtenances.

(3) The council president shall sign all ordinances, resolutions, subpoenas and other documents issued by order of the council and shall rule upon all questions of order, subject to appeal by any councilmember.

(4) The council president shall propound all questions to the council and shall declare the vote thereof upon voice vote or electronic vote, or if

in doubt, upon a call of the vote. Any member of the council shall have the right to require "yeas" and "nays" to be recorded on the minutes in all cases. The council president shall vote only if a tie vote of the council occurs.

(b) The council president shall make all appointments to committees for a period of one year.

(c) The council president shall be authorized to compel the attendance of council members by subpoena, in such circumstances as the council president shall deem to warrant the issuance of a subpoena. The subpoena shall, when issued, be executed immediately and without delay by any officer of the council so designated in accordance with its rules or by the council president. The council president shall have the authority to levy a fine of up to \$50.00 upon any councilmember who willfully fails to respond to a subpoena.

(d) The council president's expense accounts and appropriations shall be structured as follows:

(1) The chief financial officer is authorized and directed to establish within the city's standard chart of accounts, within the category of other current operating expenses, an expense account entitled "President's expense." The account shall be charged for expenses relating to official city business of the council president, to include but not be limited to business travel; convention and training; newsletter and other publication or correspondence production and distribution; office and operating supplies; service, equipment, maintenance or repair contracts; subscriptions to publications; and postage. Should the council president desire to utilize a portion of the expense accounts to fund projects for the public good, the council president may by ordinance establish a separate account from which to fund such projects which are outside the scope of regular office expenses.

(2) For appropriations to the council president's accounts, the council president shall be deemed to be the equivalent of a department head within the context of authority over the funds appropriated to the center designated and shall have authority to draw against and transfer among accounts within such center in conformity with this Code and

administrative provisions, with the exception of the salaries permanent part-time and benefits accounts. Appropriations for salaries permanent part-time and benefits shall only be expended as compensation and benefits for council assistants and are restricted from transfer to any other account. All other expenditures within the center shall be charged against the appropriate expense account in the city's chart of accounts. Notwithstanding the foregoing, the prohibition against transferring allocations from the council president's cost center shall not apply to transfers from any line item in the council president's cost center to an operating department.

(3) Subsections (1) and (2) of this section notwithstanding, the chief financial officer is authorized to ensure that funds required for salary and benefit costs shall be encumbered in such accounts and that no encumbered funds so required shall be spent for any other purpose.

(4) If the council president incurs expenses or obligations in excess of the sums appropriated for use in any calendar year, the appropriations for the succeeding year shall be reduced by the amount of any such overage. If the council president shall not be serving in office in the succeeding year, such excess expenses or obligations shall be immediately reimbursable to the city.

(5) The mayor and the chief financial officer are authorized to carry forward, as appropriations payable, from one fiscal year to the next, within a four-year term of office, and from one term to the next term; unexpended funds in appropriations to the cost center established for the council president, provided said person shall serve continuous uninterrupted terms. If such person shall not be serving in office from one term to the next, any unexpended funds shall be returned to the general fund.

#### **Sec. 2-37. Selection of council president pro tempore.**

The council shall select a council president pro tempore on an annual basis who shall preside in the absence of the council president. The councilmember selected to serve as council president pro tempore shall be chosen on a rotational basis based on seniority as has been the tradition. If two or more

councilmembers are of equal seniority, the selection shall be made on the basis of the numerical order of the respective posts first and then districts. No councilmember shall serve a second year as council president pro tempore until all members have served at least one year. During the absence of the council president, the council president pro tempore shall discharge the duties and exercise the powers and authority of the council president. In the absence of the council president pro tempore, the council president shall appoint any member of the council to preside in the council president's absence. The councilmember so chosen shall discharge the duties and exercise the powers and authority of the council president. The member of the council presiding, whether the council president pro tempore or a member of the council appointed by the council president, shall vote on all questions before the council during the time such member is presiding.

**Section 2-37.1. Method of filling temporary council vacancy.**

(a) Upon it becoming necessary to fill a temporary vacancy in the office of councilmember created by the operation of state law or, as otherwise provided by law, upon it becoming necessary to appoint by majority vote a member of the council to fill a vacancy in the office of councilmember, the municipal clerk shall have advertised in a paper of general circulation an announcement of the vacancy, together with the qualifications of the office and the geographical boundaries of the district to be represented, instructions of how to apply for the vacancy and the deadline therefor. These applications shall be forwarded by the municipal clerk to the committee on the council.

(b) The committee on the council shall present the applications to the council at the next regular meeting after the deadline or at a specially called meeting for that purpose. Nominations may also be taken from the floor at this time from any member of council. The president or presiding officer shall then refer all such nominations to the committee on the council for review and comment for the purpose of reporting on the qualifications of such nominees, any nominee not possessing the required qualifications being automatically disqualified.

(c) Upon the report of the committee on the council, a vote upon the nominees shall be taken, with no further nominations being allowed from the floor. Should no nominee receive a majority, a second vote shall be conducted between the two nominees receiving the highest number of votes. The nominee receiving a majority vote shall thereby be appointed to fill the vacancy.

(d) The qualifications necessary to qualify for election as a councilmember, as set forth in section 2-102(a) of the Charter, shall also apply to an application for the office of councilmember under this section; however, an applicant for appointment under this section shall possess all the required residency qualifications in section 2-102(a)(2) of the Charter as of the date of filing the application for the vacancy. The oath of office shall also be the same, and the replacement official shall receive the same compensation as provided by law for such office.

(e) All applicants/nominees for a vacancy on the council, which position is to be filled through appointment by the council, shall file an affidavit with the municipal clerk by 12 noon on the date that the appointment is to take place. Said affidavit shall disclose a listing of the sources of funds the applicant has received or expended. However, if the applicant/nominee has neither received or expended more than \$100.00, the applicant/nominee may file an affidavit to that effect in lieu of a listing of contributions and expenditures that are reasonably related to the applicants application to the appointment.

**Section 2:** The current Section 2-37.1 “Succession to the office of mayor, office of council president and position of council president pro tempore” is hereby re-designated as **Section 2-37.2.**

**Section 3:** All ordinances or parts of ordinances in conflict with this ordinance are hereby waived to the extent of any such conflict.